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BLD-119

February 8, 2007

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 07-1230

IN RE: ROBERT L. CARROLL, Petitioner

Present: MCKEE, FUENTES AND ROTH, CIRCUIT JUDGES

Submitted is:

- (1) Petitioner's application pursuant to 28 U.S.C. § 2244 to file a second or successive habeas corpus petition in the above-captioned case.

Respectfully,

Clerk

MMW/DPW/clc

ORDER

The foregoing application under 28 U.S.C. § 2244 for leave to file a second or successive habeas petition under 28 U.S.C. § 2254 is denied. Petitioner has not demonstrated that his claims under § 2254 would have been permitted to proceed under the pre-AEDPA standard. See United States v. Roberson, 194 F.3d 408, 412 (3d Cir. 1999). Therefore, the gatekeeping provisions of AEDPA apply. The factual predicates for Petitioner's claims could have been discovered previously through the exercise of due diligence and/or Petitioner fails to raise claims, if proven, that would establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found him guilty of the underlying offenses. See 28 U.S.C. § 2244(b)(2)(B)(i)-(ii).

By the Court,

/s/ Theodore A. McKee  
Circuit Judge

Dated: February 26, 2007

lwc/cc: Mr. Robert L. Carroll



*Marcia M. Waldron*

Marcia M. Waldron, Clerk